IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO.25 OF 2006

IN

SUIT NO.1366 OF 1986

Shiamak Fali Marshall. ...Petitioner

vs.

1. M/s.Cherokee Equipments & others. ...Respondents.

Mr.Ashwin Thakkar i/b. Thakkar & Co., for Petitioner.

Mr.V.R.Dhond i/b. Khaitan & Jaykar, for Respondent nos.1 & 3.

Mr.B.B.Saraf i/b. Vivek V.Phadke, for Respondent no.2.

Mr.Prashant Beri i/b. Beri & Co., for Respondent no.4.

CORAM: D.K.DESHMUKH,J.

DATED: 22nd March, 2007.

P.C.:-

1. By this petition, the petitioner alleges that the respondent nos. 2 and 3 in willful violation of the order dated 21.8.1986 have

transferred the premises by agreement dated 11.12.1990. The respondent nos. 2 and 3 admit that they have violated the order dated 21.8.1986. The learned Counsel appearing for respondent nos. 2 and 3 further submits that though the respondents have violated the order made by this Court because the respondent nos. 2 and 3 are aged ladies, because they have cancelled the agreement though belatedly and because they are willing to pay substantial cost to the petitioner, sentence should not be imposed on them. According to the learned Counsel, they may be directed to pay fine.

2. I have heard the learned counsel appearing for the petitioner also. In my opinion so far as the respondent nos.2 and 3 are concerned, the following order would meet the ends of justice:-

It is held that the respondent nos. 2 and 3 are guilty of having committed civil contempt of this Court. They are directed to pay Rs.2000/- each as fine. They are also directed to pay Rs.2,00,000/- each to the petitioner as and by way of cost of this petition. The respondent nos. 2 and 3 through their Advocate have undertaken before me to pay this amount of cost to the petitioner within a period of eight weeks from today. The amount of fine to be paid within a period of two weeks from today.

So far as respondent no.4 is concerned, on a motion made by the learned Counsel appearing for petitioner, the proceedings against the respondent no.4 are permitted to be withdrawn with liberty to the petitioner to take up appropriate proceedings against the respondent no.4.

It is made clear that, if according to the petitioner, any other orders passed by the Court have been disobeyed by the respondent nos. 2 and 3, the petitioner shall be at liberty to take up appropriate proceedings under the law.